

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

(1) FANSTEEL METALS, INC.,)
F/K/A FMRI, INC.)
vs. Plaintiff,) Civil Action No. 6:22-cv-00366-JFH-
vs.) GLJ
(1) CITIGROUP, INC.; and)
(2) UNION CARBIDE CORPORATION)
Defendants.)

**DEFENDANT UNION CARBIDE CORPORATION'S THIRD UNOPPOSED MOTION
FOR EXTENSION OF TIME TO ANSWER OR OTHERWISE
RESPOND TO COMPLAINT [Dkt. 2]**

COMES NOW Defendant Union Carbide Corporation (“Union Carbide”), by and through its counsel of record, and, while reserving all defenses as stated in the Fourth Joint Status Report [Dkt. 42], respectfully requests an extension to April 1, 2024, of its time to answer or file other responsive pleading to Plaintiff’s Complaint in this case.

1. The reasons for this request are stated in fuller detail in the Fourth Joint Status Report of the Parties filed on 11/20/2023, which is incorporated herein by reference. [Dkt. 42.]

2. The current deadline for Union Carbide to Answer or otherwise respond to Plaintiff’s Complaint is December 1, 2023. [Dkt. 39.]

3. Since the filing of the Third Joint Status Report, on August 21, 2023 [Dkt. 37], there has been progress with respect to the Fansteel Site, which is at issue in this CERCLA action. For instance, as the Fourth Joint Status Report more fully describes, EPA and DOJ Enforcement have continued to work on the process of determining which Defendants will be classified as *de minimis* and non-*de minimis* for purposes of *de minimis* settlement offers issued by EPA to *de minimis* Defendants, and Plaintiff has provided the basic outline and terms of confidential proposed settlement options to the Defendants in this case.

4. However, due to timing of the issues noted in the Fourth Joint Status Report and evaluation of the newly presented potential settlement options, and because the Parties are still awaiting the final report of U.S. EPA's third-party contractor Toeroek Associates, Inc. ("Toeroek"), and are not yet in receipt of Toeroek's final calculations or its determination of any percentage of total RWM volume at the Fansteel Site attributable to any specific Defendant, the parties believe that continued informal document sharing and waiting to get final information from EPA's third party contractor may be beneficial. This information is necessary before proceeding with pleadings and discovery, and this Defendant, and the Parties, believe that the requested extension of time to answer or file a responsive pleading will save judicial resources, streamline this case, and may facilitate settlement discussions between the parties. *See* Dkt. 42, p. 5-6. Thus, Fansteel submits that there is good cause for the requested extension of time stated in the Fourth Joint Status Report (April 1, 2024) for its new deadline to answer or to otherwise respond to Plaintiff's Complaint.

5. Union Carbide previously filed an unopposed motion for an extension of time on May 31, 2023 [Dkt. 32], for reasons set out in that motion and also more fully in the Second Joint Status Report filed May 22, 2023 [Dkt. 31], which the Court granted in its Minute Order of May 31, 2023, making Union Carbide's deadline to answer or otherwise respond September 1, 2023. [Dkt. 33.]

6. Subsequently, Union Carbide filed a second unopposed motion for extension of time to answer or otherwise respond on or about August 22, 2023 [Dkt. 38], for the reasons stated therein and the Third Joint Status Report filed on August 21, 2023 [Dkt. 37], which was granted on August 22, 2023, making Union Carbide's deadline to answer or otherwise respond December 1, 2023. [Dkt. 39.]

7. There is currently no scheduling order in this case, and no trial has been set, and the requested extension will not have any effect on any other deadlines.

8. Counsel for Plaintiff and counsel for Defendant Citigroup Inc. has indicated that each consent to and has no objection to Union Carbide's requested extension of time to answer or otherwise respond to the Complaint.

9. A proposed Order will be submitted pursuant to the Local Rules.

WHEREFORE, PREMISES CONSIDERED, Defendant Union Carbide Corporation respectfully requests that the Court grant Union Carbide Corporation an extension until April 1, 2024, to file its Answer or other responsive pleading.

Respectfully submitted,

/s/ Michael J. Linneman

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CERTIFICATE OF SERVICE

I hereby certify that on November 28, 2023, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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